

Before the
Administrative Hearing Commission
State of Missouri



DANIEL S. FORD,

Petitioner,

vs.

DIRECTOR OF DEPARTMENT OF
INSURANCE, FINANCIAL INSTITUTIONS
AND PROFESSIONAL REGISTRATION,

Respondent.

No. 14-0370 DI

DECISION

The Director of the Department of Insurance, Financial Institutions and Professional Registration (“the Director” and “the Department,” respectively) has cause to deny Daniel S. Ford’s application for a motor vehicle extended service contract producer license because he was convicted of a felony.

Procedure

Ford filed a complaint on March 13, 2014, challenging the Director’s denial of his application. He filed an amended complaint on March 24, 2014. The Director filed an answer on April 22, 2014. On July 11, 2014, the Director filed a motion for summary decision. We gave Ford until August 28, 2014, to respond, but he did not respond.

Under 1 CSR 15-3.446(6),¹ we may decide this case without a hearing if the Director establishes facts that Ford does not genuinely dispute and entitle the Director to a favorable decision. Facts may be established by admissible evidence such as a stipulation, pleading of the adverse party, discovery response of the adverse party, affidavit, or any other evidence admissible under law.²

By failing to respond to the Director's motion, Ford has raised no dispute as to the evidence the Director submitted in support of his motion for summary decision. That evidence includes an affidavit authenticating Ford's application and attachments thereto, an affidavit authenticating the Director's first request for admissions and Ford's responses thereto, certified copies of court records, and a certified copy of the Director's order refusing to issue a license to Ford. Therefore, the following facts are undisputed.

Findings of Fact

1. On June 3, 2005, in the Circuit Court of St. Charles County, Missouri, Ford pled guilty to, and was convicted of, the Class D felony of aggravated stalking in violation of § 565.225.³ Ford was sentenced to two years in the Missouri Department of Corrections.
2. On December 31, 2013, the Department received Ford's application for a motor vehicle extended service contract producer license.
3. On March 3, 2014, the Director issued an order refusing to issue a license to Ford.

Conclusions of Law

This Commission has jurisdiction over Ford's complaint.⁴ The applicant has the burden to show that he or she is entitled to licensure.⁵ The granting of a motor vehicle extended service

¹ All references to CSR are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

²Regulation 1 CSR 15-3.446(6)(B).

³RSMo 2000. Statutory references are to RSMo 2013 Supp. unless otherwise noted.

⁴Section 621.045.

⁵Section 621.120, RSMo 2000.

contract producer license is governed by §§ 385.200-385.220. The Director denied Ford's application under § 385.209.1:

1. The director may suspend, revoke, refuse to issue, or refuse to renew a registration or license under sections 385.200 to 385.220 for any of the following causes, if the applicant or licensee or the applicant's or licensee's subsidiaries or affiliated entities acting on behalf of the applicant or licensee in connection with the applicant's or licensee's motor vehicle extended service contract program has:

* * *

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud;

* * *

(5) Been convicted of any felony;

* * *

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

However, the Director has moved for summary decision based solely on his authority to refuse to issue a license under subdivision (5), so we deal with the refusal on the basis of Ford's felony conviction alone and deem the additional grounds cited in the Director's order and answer to have been abandoned for purposes of our decision. Because we have no discretion in these cases,⁶ any finding of cause for denial is sufficient to decide the case. The Director has provided us with admissible and uncontroverted evidence that Ford pled guilty to and was sentenced for the felony offense of aggravated stalking. Therefore, we find cause to deny Ford's application under § 385.209.1(5) based on that felony conviction.

⁶ Section 385.209.2.

Summary

We deny Ford's application for a motor vehicle extended service contract producer license and cancel the hearing.

SO ORDERED on December 17, 2014.

// Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner